UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER
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ART UNIT	PAPER NUMBER
2167	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
	10/799,861	DESHMUKH ET AL.
Office Action Summary	Examiner	Art Unit	
	Kimberly Lovel	2167	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>06 July 2007</u>.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>10,14 and 31-36</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>10, 14 and 31-36</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☒ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. <u>20070913</u>.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

1.   Claims 10, 14 and 31-36 are pending in the current application. Claims 1-9, 11-

13 and 15-30 have been canceled.

Continued Examination Under 37 CFR 1.114

2.   A request for continued examination under 37 CFR 1.114, including the fee set

forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this

application is eligible for continued examination under 37 CFR 1.114, and the fee set

forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action

has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 15 July

2007 has been entered.

Claim Objections

3.   **Claim 10** is objected to because line 8 recites "MMS" whereas it seems as if the

component recited should be MMA.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

4.   **Claims 10, 14 and 31-36 are rejected under 35 U.S.C. 103(a) as being**

unpatentable over US PGPub 2002/0175938 to Hackworth (hereafter Hackworth) in

view of US Patent No 6,430,611 to Kita et al (hereafter Kita).

Referring to claim 10, Hackworth discloses an apparatus comprising:

a storage server [filers 110 and 112] having mass storage device [storage

volumes 120 and 122] (see [0028]);

a multi-appliance management application (MMA) to mange the storage server

[management station 140] (see [0029]);

an agent [the management station which contains a monitor process] coupled to

the storage server and the MMA, the agent to scan the mass storage device to collect

information [statistical information] about a file stored on the storage server (see [0009],

lines 5-7), wherein the agent, the MMA, and the storage server are separate devices

[the examples of Hackworth display the agent and the MMA being on one server, which

is different from the storage server] (see Fig 1), and wherein the agent [CIFS] (see

[0032]) and the storage server use different file systems (see [0036]).

Hackworth fails to explicitly disclose the concept of the agent and the MMA being

separate devices. However, since software located on management station 140

includes the functions carried out by the agent and MMA, the software can be separated

and relocated to two separate devices without changing the scope of the invention. It

would have been obvious to one of ordinary skill in the art at the time of the invention to

make the MMA and the agent two separate servers since it is desirable to increase the

number of server in order to decrease the load on each server.

Making Separable: see MPEP 2144.04 [R-1] V.C: In re Dulberg, 289 F.2d 522, 523, 129

USPQ 348, 349 (CCPA 1961).

While Hackworth discloses collecting information and storing the information in a

database [storage 152], which is accessible to the MMS [management station 140] (see

[0029], lines 27-32; [0060], lines 1-4; and Fig 1), Hackworth fails to explicitly disclose

the further limitation of combining information collected into a summary of a directory in

which the file is located. Kita discloses managing storage resources of a plurality of

computer devices (see abstract), including the further limitation of combining information

collected into a summary [Top N data] of a directory in which the file is located (see

column 8, lines 8-11 and 16-21 and Fig 6).

It would have been obvious to one of ordinary skill in the art at the time of the

invention to utilize the step of combining information collected into a summary of a

directory in which the file is located as disclosed by Kita with the step of collected

information disclosed by Hackworth. One would have been motivated to do so in order

to increase the efficiency of the server by decreasing the amount of processing required

by the server each time that information is collected.

Referring to claim 14, the combination of Hackworth and Kita (hereafter

Hackworth/Kita) discloses the apparatus of claim 10, further comprising a graphical user

interface (GUI) [graphical user interface 144] coupled to the MMA [management station

140] (Hackworth: see [0029], lines 23-26 and Fig 1).

Referring to claim 31, Hackworth/Kita discloses the apparatus of claim 14,

further comprising a database [storage 152] coupled [interconnected] to the MMA

[management station 140], the database to store the summary [database information on

various devices and their associated statistics as well as other data related to

management station operations and functions] (Hackworth: see [0029], lines 27-32;

[0060], lines 1-4; and Fig 1).

Referring to claim 32, Hackworth/Kita the apparatus of claim 31, wherein the

summary can be retrieved via the GUI (Hackworth: see [0029], lines 23-26; [0042], lines

18-21; [0054]; and Fig 10).

Referring to claim 33, Hackworth discloses the apparatus of claim 10, wherein

the agent [management station 140] uses a Common Internet File System (CIFS) or a

Network File System (NFS) (Hackworth: see [0032], lines 7-10).

Referring to claim 34, Hackworth discloses a method comprising:

causing an agent [the management station which contains a monitor process] to

scan the mass storage device [storage volumes 120 and 122] to collect information

[statistical information] about files maintained by the storage server (see [0009], lines 5-

7);

sending the summary from the agent device to a multi-appliance management

application (MMA) [management station 140] (see [0009], lines 5-7), wherein the agent,

the MMA, and the storage server are separate devices [the examples of Hackworth

display the agent and the MMA being on one server, which is different from the storage

server] (see Fig 1), and wherein the agent [CIFS] (see [0032]) and the storage server

use different file systems (see [0036]).

Hackworth fails to explicitly disclose the concept of the agent and the MMA being

separate devices. However, since software located on management station 140

includes the functions carried out by the agent and MMA, the software can be separated

and relocated to two separate devices without changing the scope of the invention. It

would have been obvious to one of ordinary skill in the art at the time of the invention to

make the MMA and the agent two separate servers since it is desirable to increase the

number of server in order to decrease the load on each server.

Making Separable: see MPEP 2144.04 [R-1] V.C: In re Dulberg, 289 F.2d 522, 523, 129

USPQ 348, 349 (CCPA 1961).

While Hackworth discloses collecting information and storing the information in a

database [storage 152], which is accessible to the MMS [management station 140] (see

[0029], lines 27-32; [0060], lines 1-4; and Fig 1), Hackworth fails to explicitly disclose

the further limitation of combining information collected into a summary of a directory in

which the file is located. Kita discloses managing storage resources of a plurality of

computer devices (see abstract), including the further limitation of combining information

collected into a summary [Top N data] of a directory in which the file is located (see

column 8, lines 8-11 and 16-21 and Fig 6).

It would have been obvious to one of ordinary skill in the art at the time of the

invention to utilize the step of combining information collected into a summary of a

directory in which the file is located as disclosed by Kita with the step of collected

information disclosed by Hackworth. One would have been motivated to do so in order

to increase the efficiency of the server by decreasing the amount of processing required

by the server each time that information is collected.

Referring to claim 35, Hackworth/Kita discloses the method of claim 34,

wherein the MMA [management station 140] sends the summary to a database server

[storage 152], which stores the summary [database information on various devices and

their associated statistics as well as other data related to management station

operations and functions] as a table or histogram (Hackworth: see [0029], lines 27-32;

[0056]; [0060], lines 1-4; and Fig 1).

Referring to claim 36, Hackworth discloses the method of claim 34, wherein the

agent [management station 140] uses a Common Internet File System (CIFS) or a

Network File System (NFS) (Hackworth: see [0032], lines 7-10).

Response to Arguments

5.   The interview requested on page 5 of the Remarks filed with the RCE was granted on 13 September 2007. An Interview Summary can be found as an attachment to this action.

6.   Applicant's arguments filed 6 July 2007 have been fully considered but they are not persuasive.

In regards to claim 10, the applicants argue on pages 5-6 of the Remarks the following: In contrast, Hackworth and Kita does not teach or suggest the above emphasized limitations, namely, an agent to scan a mass storage device of a storage server to collect information about a file, wherein the agent and the storage server are separate devices and are running on different file systems.

The examiner respectfully disagrees. The cited limitation has been newly added to the amended claims. Therefore, the limitation is considered to be taught by the combination of Hackworth and Kita for the reasons stated above in the rejection of eth claim.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kimberly Lovel whose telephone number is (571) 272-2750. The examiner can normally be reached on 8:00 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Cottingham can be reached on (571) 272-7079. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Kimberly Lovel
Examiner .
Art Unit 2167

13 September 2007
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